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**FILED**

**MAR 25 2008**

**RICHARD W. WIEKING**  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	
	)	Citation No. 0892879
Plaintiff,	)	
	)	MOTION FOR DISCOVERY; <u>BRADY</u>
v.	)	MOTION; AND <u>HENTHORN</u> MOTION
	)	
AMIEL ROBINSON,	)	TRIAL DATE: APRIL 22, 2008
	)	TIME: 9:00 AM
Defendant.	)	COURT: HON. MARIA-ELENA
	)	JAMES

I. INTRODUCTION

Amiel Robinson, an African-American male, was cited for speeding by Officer Robert L. Jansing on November 20, 2007. On February 7, 2008, Mr. Robinson requested from the United States Attorney all discovery material pertaining to his charged offense of speeding, including Officer Jansing's training in the use of laser speed detection technology, the calibration of the particular speed detecting laser Officer Jansing used in issuing Mr. Robinson's citation, Officer Jansing's exact location at the time he stopped Mr. Robinson for this citation, all speeding tickets

1 Officer Jansing issued in the one month period surrounding the date  
2 of Mr. Robinson's citation, and all complaints of discrimination  
3 made against Officer Jansing. On February 13, 2008, the government  
4 partially complied with this request and provided Mr. Robinson with  
5 a copy of his citation, Officer Jansing's police report, general  
6 photographs of the area in which Mr. Robinson received his  
7 citation, and laser calibration documents.

8 On February 25, 2008, Mr. Robinson appeared before this Court.  
9 Although nervous, he attempted to explain what and why he was  
10 requesting the documents he had not received. The Court ordered  
11 the government to provide Mr. Robinson with all of the tickets  
12 Officer Jansing had issued for two weeks prior to the date on which  
13 Mr. Robinson received his ticket and for two weeks after that date.  
14 The government has since disclosed four tickets issued by Officer  
15 Jansing in this time period. Now, Mr. Robinson respectfully  
16 requests this Court to compel the government to disclose all  
17 complaints of racial discrimination against Officer Jansing to  
18 support his claim that he was not speeding, rather, Officer Jansing  
19 stopped him based solely on the color of his skin.

20 This motion is based on the Fourth, Fifth, and Fourteenth  
21 Amendments of the United States Constitution, Brady v. Maryland,  
22 373 U.S. 83 (1963), United States v. Henthorn, 931 F.2d 29 (9th  
23 Cir. 1991), Federal Rule of Criminal Procedure 16(c), and the  
24 authorities cited herein.

25

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1 II. STATEMENT OF FACTS<sup>1</sup>

2 On November 20, 2007, Amiel Robinson was driving a pick-up  
3 truck northbound on Lincoln Boulevard in the Sea Cliff area of San  
4 Francisco, California. At approximately 9:07 pm, Mr. Robinson was  
5 stopped on Lincoln Boulevard at Howard Street by Officer Robert L.  
6 Jansing. Officer Jansing's report indicates that the officer  
7 approached Mr. Robinson's vehicle and knocked on the vehicle's  
8 window. Shortly thereafter, Officer Jansing opened the driver's  
9 side door of Mr. Robinson's vehicle, which was unlocked. Mr.  
10 Robinson asked Officer Jansing why the officer had stopped him.  
11 Officer Jansing requested Mr. Robinson's identification. Mr.  
12 Robinson provided Officer Jansing with his identification after  
13 Officer Jansing stated that he would arrest Mr. Robinson if he did  
14 not give the officer his identification. After running Mr.  
15 Robinson's identification in the police database, Officer Jansing  
16 did a visual search of the driver's area of Mr. Robinson's vehicle  
17 for weapons and found none. He also reported that a warrant check  
18 was clear.

19 Officer Jansing told Mr. Robinson that he was citing Mr.  
20 Robinson for speeding and issued Mr. Robinson a citation for  
21 allegedly traveling at 46 miles per hour in a 30 miles per hour  
22 zone.

23 In response to Mr. Robinson's discovery request letter, the  
24

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25 <sup>1</sup>The following statement of facts is derived from the United  
26 States Department of the Interior National Park Service Case  
Incident Report No. 982, written and signed by Officer Robert L.  
Jansing on February 2, 2008.

1 United States Attorney's Office provided Mr. Robinson with some of  
2 the information he requested. However, regarding Mr. Robinson's  
3 request for all complaints of discrimination filed against Officer  
4 Jansing, the United States Attorney's Office responded with a  
5 letter from the Commander of Internal Affairs with the United  
6 States Park Police, who asserted that a search of Officer Jansing's  
7 personnel files revealed "no responsive Giglio material."

8 III. ARGUMENT

9 A. THE PROSECUTION MUST PROVIDE A DEFENDANT WITH ANY INFORMATION  
10 THAT CALLS INTO QUESTION THE CREDIBILITY OF A TESTIFYING LAW  
11 ENFORCEMENT WITNESS UNDER BRADY V. MARYLAND.

12 In any criminal case, the prosecution has an obligation to  
13 provide the defendant with all exculpatory evidence within its  
14 possession or control. Brady v. Maryland, 373 U.S. 83 (1963);  
15 United States v. Jennings, 960 F.2d 1488, 1491 (9th Cir. 1992). As  
16 part of this duty, the prosecution must "turn over any information  
17 about its witnesses that could cast doubt upon their credibility."  
18 Jennings, 960 F.2d at 1490 (citing Giglio v. United States, 405  
19 U.S. 150, 154 (1974)). Of course, law enforcement witnesses are  
20 not exempt from this process. In the Ninth Circuit, the  
21 prosecution is required to examine the personnel files of a  
22 testifying law enforcement officer once a defendant requests access  
23 to those files, and to turn over any pertinent information it  
24 uncovers.<sup>2</sup> United States v. Henthorn, 931 F.2d 29, 31 (9th Cir.

25 <sup>2</sup>Under Jennings, the appointed prosecutor is not required to  
26 review all the officer's files personally. Jennings, 960 F.2d at  
1491-92. However, once material information regarding the  
testifying officer is uncovered and brought to the prosecutor's  
attention, the prosecution is obligated to turn this information

1 1991). Importantly, a defendant need not make a preliminary  
2 showing that the information within the files is material to his  
3 defense - merely requesting the personnel files initiates the  
4 prosecution's obligation. Id.

5 In the event that questions arise over the relevancy or  
6 materiality of an officer's personnel information, the prosecution  
7 should submit the files to the court for an *in camera* inspection.  
8 Id. (citing United States v. Cadet, 727 F.2d 1453, 1467-68 (9th  
9 Cir. 1984)). Where a defendant is unsatisfied with the extent of  
10 the prosecution's discovery production, or where a request for  
11 access to personnel information is denied, a defendant may file a  
12 motion to compel discovery, and the court may choose to review the  
13 files *in camera*. Jennings, 960 F.2d at 1490.

14 B. MR. ROBINSON IS ENTITLED TO AN IN CAMERA REVIEW OF OFFICER  
15 JANSING'S PERSONNEL FILES.

16 Mr. Robinson moves for disclosure of Officer Jansing's  
17 personnel files. This motion is based on the Fourth, Fifth, and  
18 Fourteenth Amendments of the United States Constitution, United  
19 States v. Henthorn, 931 F.2d 29 (9th Cir. 1991), and Federal Rule  
20 of Criminal Procedure 16(c).

21 As set forth above, Mr. Robinson respectfully requests the  
22 Court to review Officer Jansing's personnel files *in camera* and  
23 compel the production of any information suggesting a history of  
24 racial bias. The prosecution, through the assurances of the  
25 Internal Affairs Commander of the National Park Service, claims

26 over to the defendant - just as it is obligated to do so when  
dealing with any government witness.



1 that there is no such material within Officer Jansing's files to  
2 produce. However, it is not clear that the National Park Service  
3 specifically looked for matters relating to formal discrimination  
4 complaints regarding Officer Jansing. In addition, Mr. Robinson is  
5 uncomfortable with the notion of the police department policing  
6 itself in this matter.

7 Mr. Robinson maintains that he was not speeding when Officer  
8 Jansing pulled him over, and he believes that Officer Jansing  
9 instituted a race-based stop. Further, Mr. Robinson asserts, based  
10 on Officer Jansing's conduct and demeanor during the stop, that  
11 Officer Jansing issued the citation in bad faith - out of racial  
12 animosity - and not based on any objective evidence of a traffic  
13 violation. Mr. Robinson believes that there may be evidence of  
14 racial discrimination within Officer Jansing's personnel files that  
15 will only be disclosed in response to this Court's order.

16 IV. CONCLUSION

17 For the aforementioned reasons, Mr. Robinson respectfully  
18 requests this Court to order the United States Attorney's Office to  
19 produce the requested discovery to this Court for an in camera  
20 inspection.

21 Dated: March 24, 2008

22 Respectfully submitted,

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24   
25 AMIEL ROBINSON  
26  
3/25/08

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U.S. ATTORNEY'S OFFICE  
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Telephone: (510) 938-2696  
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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA,	)	CITATION No. 0892879
	)	
12 Plaintiff,	)	CERTIFICATE OF SERVICE
	)	
13 v.	)	
	)	
14 AMIEL ROBINSON,	)	
	)	
15 Defendant.	)	

16 \_\_\_\_\_

17 The undersigned hereby certifies under penalty of perjury  
18 that a true and correct copy(ies) of the foregoing:  
19

20 MOTION FOR DISCOVERY

21 in the case of United States v. Amiel Robinson, Citation No.  
22 0892879 was on this date served by hand-delivery to the  
following:

23 Office of the United States  
Attorney  
24 450 Golden Gate Avenue, 11th  
Floor  
25 San Francisco, CA 94102  
ATTN: Wendy Thomas  
26

CERTIFICATE OF SERVICE

1 Executed on this  
2 25th day of March, 2008, at San Francisco, California.

3 *Monique Cook*  
4 Monique Cook 3/25/08  
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